

Code of guidance on funding external bodies and following the public pound

The Code was published jointly by the Accounts Commission and the Convention of Scottish Local Authorities, in 1996.

Objective of the Code

It is important to ensure clear public accountability for public funds at the same time as supporting initiatives for securing quality local authority services in the most effective, efficient and economic manner.

The principles of openness, integrity and accountability apply to councils in their decisions on spending public money which are subject to public record and external audit. These principles should also apply to funds or other resources which are transferred by councils to arms-length bodies such as companies, trusts and voluntary bodies.

This guidance is intended to ensure proper accountability for such funds and that the principles of regularity and probity are not circumvented. It has the support of the Convention of Scottish Local Authorities.

Scope

The guidance which follows sets out a framework for councils' relationships with bodies through which they seek to carry out some of their functions other than on a straightforward contractual basis.

The principles of the guidance apply to companies and other bodies such as trusts or grant-aided voluntary organisations, both where such bodies are subject to local authority control or influence and where they operate at arm's length.

Councils will wish to have their own rules setting out procedures appropriate to their local circumstances and internal processes, and those rules should be based on this guidance.

The guidance should apply to any new substantial funding relationships entered into by councils and to existing substantial funding relationships at the earliest possible review date.

What is 'substantial' will vary according to circumstances. When interpreting 'substantial' councils should have regard to the significance of the funding in relation to their own budgets and its significance in relation to the budget of the external body. We do not, for example, intend this guidance to apply to the many small revenue grants which councils make to community groups annually. 'Funding' is intended to include all resources which councils may transfer.

Purposes

When agreeing to transfer funds to an external body a council must be clear about its reasons for doing so. Proper considerations should always apply and the prime purpose of involvement with external bodies should be the achievement of the council's objectives in the most effective, efficient and economic manner and not the avoidance of controls or legal restrictions which are designed to secure probity and regularity in the use of public funds. The reasons should be related to a strategy or policy of the council and that link should be demonstrable. An overall statement of purpose should be contained in any council decision

to establish the funding relationship and should be expressed in any establishing documents or written agreements or understandings between the council and the body.

The council should set out its expectation of the use of the funding. This should contain a broad and general statement of aims or goals and should also contain clear targets with timescales and methods of measurement whenever possible, as well as any conditions and reporting requirements.

Financial regime

The council should spell out clearly the extent of its financial commitment to the external body and the nature of the financial relationship eg, shareholding, grant, loan, contractual payments.

Criteria for making and receiving payments should be specified. The transfer of any assets should be clearly regulated in a written agreement and the end destination of any such assets should be specified.

The council's entitlements to any financial return should be stipulated and commitments to financial contributions by councils should not be open-ended in duration or amount.

The written agreement should refer to the minimum standard of management arrangements which need to be in place and any specific or additional responsibility and accountability which is being vested in a board or management committee. The minimum accounting and audit requirements should also be included.

Monitoring arrangements

The council should make clear any requirements which it has of external bodies to operate in a particular way. This might include proper employment practices, recruitment and selection processes, equal opportunities requirements, wages and conditions of service of employees and purchasing policies.

The council should also stipulate how it intends to monitor the relationship between itself and the external body. For example, the council may wish to stipulate that it will have appropriate access to records held by the body. The council may require the body to take appropriate advice on its actions and to make frequent monitoring reports to the council on such matters as:

- income, expenditure, profitability, liquidity and other financial matters
- achievement of targets
- future plans.

Regardless of representation on committees or boards, the council should insist on regular monitoring and reporting back by such bodies. Where the council designates a member of staff in a supervisory officer or equivalent capacity it should ensure that such officers are clearly aware of their responsibilities and of the relevant monitoring procedure.

It is not the intention of this guidance to try to put the external auditors of the council in the place of the auditors of external bodies. However, the council must ensure that its external auditors are given a right

of access to such records, and, if appropriate, accounts and financial arrangements of the external body so that they may follow the trail of public money from the council through the body. They should be able to seek, through the council, any explanations which they consider necessary from representatives of the body. The external auditors of the council should also have access, through the council, to the external auditors of the body.

Representation

The council should consider very carefully the question of representation on the boards of companies which are subject to its control and, to an even greater extent, on bodies which are not subject to its control. For example, members or officers who become directors will assume personal responsibilities under the Companies Act.

It is possible that conflicts of interest can arise for such members and officers as between the company and the council. The council must ensure that members and officers are properly advised of their responsibilities to the council and to the company. This should include questions of declarations of interest.

Limitations

In entering into a substantial funding commitment with an external body the council should lay down a timetable for the achievement of the objectives. If the purpose is a continuing one, then provision should be made for regular review of achievements and of the relationship between the body and the council.

Arrangements should include regular reporting to an appropriate council committee, if necessary in private if issues of commercial confidentiality arise. Clear limits should be set on the extent to which the council will become involved financially with the body and its affairs.

Clear rules should be laid down at the outset for terminating the funding agreement and separation of the council's interest from that of the body. Councils should consider whether particular events should trigger a review eg, a change of leading personnel in the external body.

Accountability

The external auditors appointed by the Accounts Commission will be required to review as part of the annual audit the arrangements which councils have made for such substantial funding agreements and will measure councils' compliance with this guidance. In cases where they have concerns over issues of probity and regularity they will make these known to the council and the Controller of Audit.